



Planning Department

TOWN OF ACTON
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MEMORANDUM

To: Planning Board

Date: June 22, 2006

From: Roland Bartl, AICP, Town Planner *R.B.*

Subject: Public Ways Jurisdiction

At a recent meeting one Board member was seeking clarification on the authority of the Board of Selectmen over public ways.

The control of streets in the Town of Acton is placed in the hands of the Board of Selectmen under Acton's General Bylaws, section E39:

E39. Public Way Obstruction/Destruction

No person shall break or dig up the surface for any purpose whatever; set or place any fence, post, tree, or edgestone, or alter or change the position or direction of any fence, post, tree or edgestone; swing any door or gate; or change the grade or width in, upon, or over any public way without the written license of the Board of Selectmen, which shall prescribe the limitations or restrictions of such activity.

There is then a regulation under that law, by which the Selectmen have delegated the day-to-day execution of this authority to the Engineering Department - see attached 'Specifications for Regulating Construction within Public Ways'.

There have been nearly 600 permits under these regulations during the last 7 years:

1999 - 68 permits
2000 - 90 permits
2001 - 80 permits
2002 - 108 permits
2003 - 103 permits
2004 - 67 permits
2005 - 70 permits

TOWN OF ACTON
SPECIFICATIONS FOR REGULATING CONSTRUCTION
WITHIN PUBLIC WAYS

SECTION 1
GENERAL REQUIREMENTS

1.1 Preface

- 1.1.1 Work Requiring Permits - Any public utility company; including the Acton Water Supply District, Boston Edison Company, Boston Gas Company, N.E.T., A.T. & T., etc.; private contractor, or any person(s) who intends to break any street or sidewalk surface, construct a driveway, or excavate any road shoulder within the limits of a Town way in the Town of Acton for any reason must first obtain a permit from the Acton Engineering Department, 472 Main Street, Acton, MA 01720, (508) 264-9628.
- 1.1.2 Granting of Permit - This permit will be granted if the proposed work is in the best interests of the Town and its inhabitants, is appurtenant to a building permit duly issued by the Building Inspector, or is in conjunction with the construction of a road shown on an approved subdivision plan. The permit is conditional upon the permittee's willingness to abide by these specifications.
- 1.1.3 Permit Fees - Application forms for a permit hereunder are available from the Town of Acton Building Department. The permit fee is \$50.00, except that for new driveway installation only, the permit fee is \$25.00. The permit fee for maintenance, modification or repair of existing driveways is \$10.00. All permit fees are non-refundable.
- 1.1.4 Plan Approval - Plans or sketches showing the proposed work must be submitted with the application, and are subject to the approval of the Town Manager or his designee.

1.1.5 Interpretation of Specifications - The Town Manager or his designee will be solely responsible for the interpretation of these specifications, and all work hereunder must be done to his satisfaction.

1.1.6 Time Limits - The Town Manager or his designee, in his judgement, may extend any time limit in these specifications if weather or other conditions beyond the control of the permittee have hindered the proper completion of the work.

1.1.7 Inspection Schedule - Routine inspections will normally be required at the following phases of construction, however, this schedule will be adjusted to fit the size and complexity of individual jobs. The Acton Engineering Department will generally provide only the minimum amount of inspection necessary to insure reasonable compliance with these regulations. The contractor must notify the Acton Engineering Department at (508) 264-9628 at least 24 hours in advance whenever an inspection is indicated.

1.1.7.1 Prior to the issuance of a permit hereunder, a site inspection will be conducted to note the location and condition of such features as, road bounds, private property bounds, stone walls, pavement, sidewalks, trees, etc.

1.1.7.2 After the excavation and installation of the proposed utility, and later during the compaction of backfill and installation of surface gravel.

1.1.7.3 After installation of the temporary patch.

1.1.7.4 After installation of the final patch.

1.1.7.5 Prior to release of the bond.

1.1.7.6 At other specific times deemed necessary by the Town Manager or his designee.

- 1.1.8 Emergency Utility Repair - Public Utility Companies may undertake emergency underground repair of their facilities without a permit when such repairs must be made at night or on weekends or holidays provided that a permit is applied for on the first regular business day following the repair, and the company takes all reasonable measures provided for in these regulations for the care and safety of the public.

1.2 Public Safety

- 1.2.1 General - The permittee, from the time the work commences until the work has been approved in writing by the Town Manager or his designee, shall be responsible for the safety of the public. Depending upon the nature of the work, the applicable sections of Part VI of the Manual on Uniform Traffic Control Devices shall be applied.
- 1.2.2 Detours - If the nature of the work requires the closing of all or a portion of a public way, a suitable detour must be established. Applicants requesting a detour must complete a Special Request Form, available from the Acton Engineering Department. Each detour shall be adequately marked with standard temporary signs as described in section 6B-38 of the Manual on Uniform Traffic Control Devices. Plans showing the route of the proposed detour must accompany the application form and the Special Request Form. No detour may remain in effect overnight, therefore, all roads must be made passable by the end of each days construction. The Town Manager or his designee will be responsible for notifying the persons or agencies listed on the Special Request Form of the date, time and place of each detour.
- 1.2.3 Warning Devices - When required by the nature of the work; signs, lights and barricades, erected at the expense of the permittee, in conformance with sections 6B through 6F of the Manual on Uniform Traffic Control Devices shall be utilized.

1.2.4 Traffic Control Officer - Applicants requesting a permit hereunder must, in all cases, submit a copy of the completed application form and a Special Request Form to the Police Chief or his designee for review. The Police Department is located at 365 Main Street, Acton, MA 01720, (508) 264-9638. If the Police Chief deems it necessary for public safety, the permittee shall pay the expenses of a police officer to direct traffic during construction. Prior to the issuance of a permit hereunder, the applicant must return the completed application form and the Special Request Form with all applicable signatures to the Engineering Department.

1.2.5 "Dig Safe" - Massachusetts Law (Chapter 82, Section 40) requires that contractors notify public utility companies at least 72 hours before any excavation in a public way. A telephone call to the Underground Plant Damage Prevention System, "Dig Safe", satisfies this requirement. The telephone number is 1-800-322-4844. The "Dig Safe" job number assigned by the Underground Plant Damage Prevention System must be included on the permit application. A permit cannot be issued until the applicant demonstrates compliance with MGL Ch. 82 S 40.

SECTION 2 EXCAVATIONS

2.1 General

2.1.1 Preservation of Physical Features - All excavations and other work within the limits of a Town way will be conducted in a manner which will minimize damage or disruption to such features as stone walls, trees, fences, guard rails, etc.

2.1.2 Bounds - If the work requires or results in the disruption or destruction of a road bound or private property bound, the bound must be reset by a Registered Professional Land Surveyor at the applicants expense in its original location at the new grade of the shoulder or driveway. The location of the reset bound must be certified in writing, at the applicants expense, by a Registered Professional Land Surveyor.

2.1.3 Working Around Public Shade Trees - Any work within the drip line of a public shade tree shall be performed in accordance with the following guidelines, and will be subject to the approval of the Acton Tree Warden, 472 Main Street, Acton, MA 01720, (508) 264-9629.

2.1.3.1 Removal of public shade trees is subject to M.G.L. Chapter 87, Section 3. (i.e. The tree must be posted and a public hearing held prior to removal.)

2.1.3.2 Hand trenching, tunneling or removal of tree roots will be performed at the discretion of the Tree Warden.

2.1.3.3 No trenches within the drip line of any public shade tree will be allowed to remain open overnight.

2.1.3.4 Pruning of roots or branches, or repairs to tree trunks must comply with the best arboricultural practices.

2.1.3.5 Inspections performed by the Acton Tree Warden will be billed to the permittee at a rate of \$30.00 per hour.

2.1.4 New Roads - The cutting of paved road surfaces less than three (3) years old will not be permitted, unless final patching is done with infrared patching equipment.

2.1.5 Seasonal Limits for Construction - No paved road surface may be cut between November 15 and March 15, except that in the interest of public safety and convenience the Town Manager or his designee may issue a permit to a public utility company for an emergency repair to an existing facility.

2.2 Materials

- 2.2.1 Approval of Materials - All materials used on construction within public ways shall be subject to approval by the Town Manager or his designee. This will include but not be limited to, the size, type, and quality of pipe, the type of gravel backfill, the quality of the patching material, etc. Cold patch as a temporary or permanent patching material will not be allowed except that between November 15 and March 15 it may be used for temporary patches on emergency cuts allowed under Section 1.1.8.

2.3 Driveways

- 2.3.1 Typical Driveway Construction - Residential driveways shall be constructed according to the typical driveway detail of the Town of Acton. (see reverse side of permit application)
- 2.3.2 Driveways at Intersections - Driveways will not be allowed to enter directly onto an intersection rounding.
- 2.3.3 Sight Distance - Driveway entrances should be located on the lot frontage at a location offering the maximum sight distance and safety.

2.4 Trenches

- 2.4.1 Pavement Cut-backs - After excavation is commenced, the bituminous or concrete street or sidewalk surface shall be cut vertically in a line parallel to the centerline of construction and approximately one foot wider on all sides than the excavation, using an approved power tool, to allow for trench excavation without further disturbing the road or sidewalk surface on either side of the trench.
- 2.4.2 Backfill - The backfill shall consist of the excavated material if it is declared suitable by the Town Manager or his designee. Backfill will be placed in successive layers of not more than six (6) inches of compacted depth. If, in the opinion of the Town Engineer, the excavated material is unsuitable, the entire rejected material shall be disposed of by the applicant in a location as

directed by the Town Manager or his designee at no cost to the Town. In its place, the applicant shall bring in suitable fill material consisting of approved gravel or borrow, as directed. After thorough tamping around and beneath the utility, the six (6) inch layers of backfill will be thoroughly compacted as follows: If dry, it shall be moistened and then compacted by tamping with mechanical rammers, or by hand tampers having a tamping face not exceeding 25 square inches in area. The final 12 inches of backfill will, in all cases, consist of crushed gravel thoroughly tamped and made even with the surrounding surface.

- 2.4.2.1 Ready Mixed Flowable Fill - The use of ready mixed flowable fill (or controlled low strength material) as trench backfill for all pavement cuts in excess of 30 inches in depth is encouraged in all cases, especially for such cuts on numbered routes. The composition of the mix shall be approximately as follows:

Cement	50 - 75 lbs.
Sand	3160 lbs
Water	500 - 560 lbs

Final cured material is to be excavatable and have a load bearing value about the same as fully compacted gravel. When this material is used, the final patch can be placed not less than 12 hours after the backfill is placed. If the final patch is not placed within 36 hours, a temporary patch according to section 2.4.4 shall be applied not less than 12 hours after the flowable backfill is placed. This material is not suitable as backfill for Aluminum or Aluminum Coated pipe culverts. The utility or conduit will, if necessary, be secured to prevent it from floating during placement of the flowable fill.

- 2.4.3 Patching Requirements - After backfill is in place and satisfactorily compacted, the applicant shall apply at once a 1 1/2 inch temporary patch course over the entire excavated area (Bituminous-Concrete Type I-1 hot top) to be left in place for at least one month and not more than three months, until no further settling can be reasonably expected. At that time the applicant shall remove the temporary patch course. Any uneven edges of existing pavement will be cut vertically with an approved power tool and tack coated with asphalt emulsion (RC-2). For

oil treated roads, the permanent patch must be three (3) inches of Bituminous-Concrete (Type I-1) in layers of 1 1/2 inches each. For Bituminous-Concrete surfaced roads, the permanent patch must be four (4) inches of Bituminous-Concrete (Type I-1) laid in two (2) courses, a 2 1/2 inch binder course and a 1 1/2 inch top course. If existing pavement is of a greater depth, the patch should be of the same depth. At no time should the Bituminous-Concrete be laid in layers greater than 2 1/2 inches. When the patch has been completed, the joints should be painted with an RC-2 and sealed with sand. See Section 2.1.4 for special requirements for patching pavements less than three (3) years old.

2.4.4 Nights, Weekends and Holidays - No more than 100 feet of trench shall be left open overnight and all trenches must be closed over weekends and holidays.

2.4.5 Accessibility - All driveways to homes and places of business shall be bridged and open to travel overnight.

2.5 Shoulders

2.5.1 Restoration of Road Shoulders - All road shoulders must be carefully returned to their original condition.

2.5.2 Restoration of Lawns - Lawns will be restored with a minimum of four (4) inches of loam, fertilized, rolled and seeded.

SECTION 3 PERFORMANCE DEPOSITS AND INSURANCE

3.1 Performance Deposits

3.1.1 Deposit Amount - All permits issued hereunder shall require a certified check in the amount of fifteen hundred dollars (\$1500.00) to be deposited with the Town Treasurer as a guarantee to abide by these specifications, except that in situations involving driveways only, the minimum deposit shall be five

hundred dollars (\$500.00) per driveway entrance. For permits involving the maintenance, minor modification or repaving of driveways to existing buildings, no deposit will be required.

3.1.2 Special Deposits - Street cuts over thirty (30) feet in length or significantly larger in scope than usual shall be secured by a larger amount, determined by the Town manager or his designee. However, the minimum deposit shall be fifteen hundred dollars (\$1500.00). Letters of Credit will be accepted only for amounts exceeding ten thousand dollars (\$10,000.00) and must be approved by the Town Treasurer.

3.1.3 Deposits from Public Utility Companies - Public Utility Companies; including The Acton Water Supply District, Boston Edison Company, Boston Gas Company, N.E.T., A.T. & T., etc.; may be exempt from posting performance deposits provided one of the following conditions is met:

3.1.3.1 No performance deposit shall be required when the work relative to a permit issued hereunder is completed solely by personnel employed directly by the utility company named on the permit. A Certified Company Bond from each utility company must be posted and maintained on file with the Town Treasurer. The amount of each bond shall not be less than \$25,000.00.

3.1.3.2 In cases where the utility company has retained the services of an outside contractor to complete work relative to a permit issued hereunder, the utility company must agree in writing to the Town of Acton that a sufficient sum of money or retainage, as determined by the Town manager or his designee, will be withheld from final payment to the outside contractor until the Town manager or his designee has approved the completed work in writing to the utility company.

3.1.4 Deposit Release - When permanent patching, reloaming and seeding, and all work required by the permit issued hereunder has been approved in writing by the Town Manager or his designee, the Town will refund to the applicant the amount of the deposit, less any amounts as noted below.

3.1.5 Deposit Forfeiture - In the event that Town personnel or equipment must be utilized to make emergency repairs or to complete unfinished work required by the permit issued hereunder, the cost of such repair or work will be deducted from the deposit. A standard multiplier of 2.5 will be applied to all labor and materials costs to determine the amount to be deducted. If the repair or completion cost exceeds the amount of the deposit, the applicant must pay the difference to the Town.

3.2 Insurance

3.2.1 Insurance Requirements - A Certificate of Insurance indemnifying the Town against claims for injury, death or property damage during construction, must be filed with the permit application. The limits shall conform with the following schedule:

Workmen's Compensation and Employer's Liability Insurance in compliance with statutory limits.

Comprehensive General Liability Insurance - \$1,000,000.00 each occurrence and aggregate amount.

Automobile Liability Insurance -

Bodily Injury: \$250,000.00 each person
 \$500,000.00 each occurrence

Property Damage: \$100,000.00 each occurrence

SECTION 4 VIOLATIONS

4.1 General

- 4.1.1 Expiration of Permits - If after three (3) months from the date of the permit the repair to the Town way is not completed according to these specifications and to the satisfaction of the Town Manager or his designee, the permittee will be notified in writing by the Town Manager or his designee that the permit has expired. If no action is taken by the applicant to complete the unfinished work within thirty (30) days of the date of the written notice, the Town of Acton will then complete the necessary work in any manner deemed appropriate and deduct from the deposit all costs of completing the work in accordance with these specifications. For driveway permits only, the expiration date will be six (6) months from the date of issue.
- 4.1.2 Emergency Repairs - If at any time during the life of the permit the permittee allows the construction to exist in a condition dangerous to users of the road, then the Town Manager or his designee may, without written notice to the permittee, make the necessary arrangements to correct the unsatisfactory condition. The cost of such work will then be deducted from the deposit in accordance with Section 3.1.4 of these specifications at the time the deposit is refunded
- 4.1.3 Fines - Failure to obtain a permit prior to the start of any construction within a public way shall be subject to a fine of not more than fifty dollars (\$50.00) per offense in accordance with Article 35 of the 1989 Annual Town Meeting. Each day that such violation continues shall constitute a separate offense.

SECTION 5
AUTHORITY

5.1 General

5.1.1 These Specifications for Regulating Construction Within Public Ways are approved and adopted by the Board of Selectmen under the authority of the Bylaws of the Town of Acton, Section E 39.

5.1.2 Approved and adopted by the Board of Selectmen on February 4, 1969.

Revisions approved by the Board of Selectmen on September 24, 1974.

Revisions approved by the Board of Selectmen on August 3, 1982.

Revisions approved by the Board of Selectmen in March, 1985.

Revisions approved by the Board of Selectmen on January 8, 1991.

Date: _____

Permit No.: _____

TOWN OF ACTON

Permit to Construct Within a Public Way

SPECIAL REQUEST FORM

Applicants Name: _____

Address: _____

Telephone #: _____

Location of construction: _____

Police Detail Authorization

- A. The work described in the application for a Permit to Construct Within a Public Way warrants the presence of a traffic control officer. A detail has been scheduled for: (Date) _____

Signed: _____ Date: _____
Acton Police Chief

- B. The work described in the application for a Permit to Construct Within a Public Way does not warrant the presence of a traffic control officer.

Signed: _____ Date: _____
Acton Police Chief

Detour Request

Is a detour required ? _____ YES (see section A below)
_____ NO (see section B below)

A. The work described in the accompanying application for a Permit To Construct Within a Public Way requires the closing of _____ (street name) from _____ (intersecting street) to _____ (intersecting street). The detour will be in effect from _____ (date) to _____ (date) between the hours of _____ and _____.

Describe the route of the proposed detour: _____

A plan showing the proposed detour and a description of the signs to be used has been submitted herewith and the following persons or agencies have been notified:

(To be completed by the Town Engineer)

Police Chief: _____ Date: _____
Fire Chief: _____ Date: _____
Town Engineer: _____ Date: _____
Highway Super.: _____ Date: _____
School Bus Trans.: _____ Date: _____

B. The work described in the accompanying application for a Permit to Construct Within a Public Way does/does not require closing a public way.

Signature of Applicant: _____

Date: _____